



***Substitute Senate Bill No. 549***

***Public Act No. 06-156***

***AN ACT CONCERNING MORTGAGES, REAL ESTATE FINANCING  
AND FEES FOR THE EXAMINATION OF LAND RECORDS IN CIVIL  
ACTIONS AFFECTING TITLE TO REAL PROPERTY.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (c) of section 49-2 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2006*):

(c) Advancements may also be made by a mortgagee, or the assignee of any mortgagee, under an open-end mortgage to the original mortgagor, or to the assign or assigns of the original mortgagor who assume the existing mortgage, or any of them, and any such mortgage debt and future advances shall, from the time such mortgage deed is recorded, without regard to whether the terms and conditions upon which such advances will be made are contained in the mortgage deed and, in the case of an open-end mortgage securing a commercial revolving loan, a consumer revolving loan or a letter of credit, without regard to whether the authorized amount of indebtedness shall at that time or any time have been fully advanced, be a part of the debt due such mortgagee and be secured by such mortgage equally with the debts and obligations secured thereby at the time of recording the mortgage deed and have the same priority over

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the rights of others who may acquire any rights in, or liens upon, the mortgaged real estate subsequent to the recording of such mortgage deed, provided: (1) The heading of any such mortgage deed shall be clearly entitled "Open-End Mortgage"; (2) the mortgage deed shall contain specific provisions permitting such advancements and, if applicable, shall specify that such advancements are made pursuant to a commercial revolving loan agreement, a consumer revolving loan agreement or a letter of credit; (3) the mortgage deed shall state the full amount of the loan therein authorized; (4) the terms of repayment of such advancements shall not extend the time of repayment beyond the maturity of the original mortgage debt, provided this subdivision shall not be applicable where such advancements are made or would be made pursuant to a commercial revolving loan agreement, a consumer revolving loan agreement or a letter of credit, and the mortgage deed specifies that such advancements are repayable upon demand or by a date which shall not be later than thirty years from the date of the mortgage; (5) such advancements shall be secured or evidenced by a note or notes signed by the original mortgagor or mortgagors or any assign or assigns of the original mortgagor or mortgagors who assume the existing mortgage, or any of them, but no note shall be required with respect to any advancements made pursuant to a commercial revolving loan agreement, a consumer revolving loan agreement or a letter of credit as long as such advancements are recorded in the books and records of the original mortgagee or its assignee; (6) the original mortgage shall be executed and recorded after October 1, 1955; (7) the original mortgagor or mortgagors, or any assign or assigns of the original mortgagor or mortgagors who assume the existing mortgage, or any of them, are hereby authorized to record a written notice terminating the right to make such optional future advances secured by such mortgage or limiting such advances to not more than the amount actually advanced at the time of the recording of such notice, provided a copy of such written notice shall also be sent by registered or certified mail, postage prepaid and return receipt requested, to the

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mortgagee, or a copy of such written notice shall be delivered to the mortgagee by a proper officer or an indifferent person and a receipt for the same received from the mortgagee, and such notice, unless a later date is recorded or specified in the notice, shall be effective from the time it is received by the mortgagee; (8) except that if any such optional future advance or advances are made by the mortgagee, or the assignee of any mortgagee, to the original mortgagor or mortgagors, or any assign or assigns who assume the existing mortgage, or any of them, after receipt of written notice of any subsequent mortgage, lien, attachment, lis pendens, legal proceeding or adjudication against such real property, then the amount of any such advance, other than an advance made pursuant to a commercial revolving loan agreement or a letter of credit, shall not be a priority as against any such mortgage, lien, attachment, lis pendens or adjudication of which such written notice was given; (9) any notice given to the mortgagee under the terms of subdivision (8) of this subsection shall be deemed valid and binding upon the original mortgagee or any assignee of the original mortgagee, in the case of a mortgagee other than a banking institution, on the next business day following receipt by such mortgagee of such notice sent by registered or certified mail, postage prepaid and return receipt requested, or by hand delivery with a signed receipt, and in the case of a mortgagee which is a banking institution, on the next business day following receipt at the main office of such banking institution of such notice sent by registered or certified mail, postage prepaid and return receipt requested, or by hand delivery with a signed receipt. For the purposes of this subsection: (A) "Banking institution" means a bank and trust company, a national banking association having its main office in this state, a savings bank, a federal savings bank having its main office in this state, a savings and loan association, a federal savings and loan association having its main office in this state, a credit union having assets of two million dollars or more, or a federal credit union having its main office in this state and having assets of two million dollars or

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more; (B) "commercial revolving loan" means a loan to a foreign or domestic corporation, partnership, limited liability company, sole proprietorship, association or entity, or any combination thereof, [organized for profit and engaged primarily in commercial, manufacturing or industrial pursuits] the proceeds of which are not intended primarily for personal, family or household purposes, which loan entails advances of all or part of the loan proceeds and repayments of all or part of the outstanding balance of the loan from time to time; and (C) "consumer revolving loan" means a loan to one or more individuals, the proceeds of which are intended primarily for personal, family or household purposes, which is secured by a mortgage on residential real property, and is made pursuant to an agreement between the mortgagor and mortgagee which (i) provides for advancements of all or part of the loan proceeds during a period of time which shall not exceed ten years from the date of such agreement and for repayments of the loan from time to time, (ii) provides for payments to be applied at least in part to the unpaid principal balance not later than ten years from the date of the loan, (iii) does not authorize access to the loan proceeds by a credit card or any similar instrument or device, whether known as a credit card, credit plate, or by any other name, issued with or without a fee by an issuer for the use of the cardholder in obtaining money, goods, services, or anything else of value on credit, and (iv) does not provide that such a revolving loan to more than one mortgagor will be immediately due and payable upon the death of fewer than all the mortgagors who signed the revolving loan agreement. Nothing in this subsection shall affect the validity or enforceability of any loan agreement which provides for future advancements by a lender to a borrower as between such parties or their heirs, successors or assigns, or shall affect the validity or enforceability of any mortgage securing any such loan that would be valid and enforceable without the provisions of this subsection.

Sec. 2. Section 49-9 of the general statutes is amended by adding

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subsection (d) as follows (*Effective October 1, 2006*):

(NEW) (d) A release of mortgage executed in accordance with this section shall operate to release the interest of the releasor in the mortgage which is the subject of the release, even if such interest is, in fact, acquired by the releasor after executing such release or does not appear of record until after the execution of such release. Nothing in this subsection shall be construed to limit the effect of any release of mortgage recorded before, on or after the effective date of this section.

Sec. 3. Section 49-10 of the general statutes is amended by adding subsection (h) as follows (*Effective October 1, 2006*):

(NEW) (h) An assignment executed in accordance with this section shall operate to assign the interest of the assignor in the mortgage which is the subject of the assignment, even if such interest is, in fact, acquired by the assignor after executing such assignment or does not appear of record until after the execution of such assignment. Nothing in this subsection shall be construed to limit the effect of any assignment of mortgage debt recorded before, on or after the effective date of this section.

Sec. 4. Section 49-13a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2006*):

(a) When record title to real property remains encumbered by any undischarged mortgage, and the mortgagor or those owning [his] the mortgagor's interest therein have been in undisturbed possession of the property for at least [forty] twenty years after the expiration of the time limited in the mortgage for the full performance of the conditions thereof, or for at least forty years from the recording of the mortgage if the mortgage does not disclose the time when the note or indebtedness is payable or the time for full performance of the conditions of the mortgage, unless a notice is recorded pursuant to subsection (b) of this

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section, the mortgage shall be invalid as a further lien against the real [estate] property, provided an affidavit, subscribed and sworn to by the party in possession, stating the fact of such possession, is recorded on the land records of the town [wherein] in which the property is situated.

(b) The record holder of an undischarged mortgage on real property may, prior to the expiration of the applicable time period specified in subsection (a) of this section, record a notice, on the land records of the town in which the property is situated, that contains: (1) The name or names of the mortgagors; (2) the recording information for the mortgage and any assignment of the mortgage; and (3) a statement of the reasons why the mortgage is valid and effective. Upon the recording of such notice in accordance with this subsection, the applicable time period after which the mortgage shall be invalid as a further lien against the real property as provided in subsection (a) of this section shall be tolled for a period of ten years from the recording of such notice. Any such notice shall be indexed in the grantor's index under the name or names of the mortgagors and in the grantee's index under the name of the record holder of the mortgage.

Sec. 5. Subsection (b) of section 52-257 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) Parties shall also receive: (1) For each witness attending court, the witness' legal fee and mileage; (2) for each deposition taken out of the state, forty dollars, and for each deposition within the state, thirty dollars; (3) on an application for the sale of property attached, the expenses incurred; (4) in any civil action affecting the title to real property situated in this state, or affecting any mortgage or lien thereon, the actual expense, not exceeding the sum of [one hundred fifty] two hundred twenty-five dollars, of an examination of the land records concerning the title to the real property in question and such

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amount as the court or judge determines to be reasonable for the services of an expert on the value of the land when such value is in dispute; (5) for maps, plans, mechanical drawings and photographs, necessary or convenient in the trial of any action, a reasonable sum; (6) for copies of records used in evidence, bonds, recognizances and subpoenas, court and clerk's fees; (7) for the signing and service of process, the legal fees payable therefor, except that a fee shall not be allowed for the return of a subpoena to court; (8) the actual expense incurred in publishing orders of notice under direction of the court; (9) for each interpreter necessarily employed in the trial of any civil action, twenty dollars per diem; (10) for premiums upon all bonds or undertakings provided pursuant to statute, rule of court, order of court or stipulation of parties, including bonds in lieu of or in release or dissolution of attachment, the actual amount paid, not exceeding a reasonable amount; (11) documented investigative costs and expenses, not exceeding the sum of two hundred dollars; and (12) for the recording, videotaping, transcribing and presentation of the deposition of a practitioner of the healing arts, as defined in section 20-1, dentist, registered nurse, advanced practice registered nurse or licensed practical nurse, as defined in section 20-87a, or real estate appraiser that is used in lieu of live testimony in the civil action, the reasonable expenses incurred.

Approved June 6, 2006